

No. DPH-EI-83/180.—In exercise of the powers conferred by sub-sections (1) and (2) of section 4 and section 5 of the Punjab Gram Panchayat Act, 1952 (Punjab Act 4 of 1953); and all other powers enabling him in this behalf, and in supersession of all the previous notifications issued in this behalf, the Governor of Haryana hereby makes the following amendment in Haryana Government Development and Panchayat Department Notification No. DPH-EI-83/132, dated 31st May, 1983.

AMENDMENT

In Haryana Government, Development and Panchayat Department Notification No. DP-EI-83/132, dated 31st May, 1983, in the schedule against serial No. 130, 76, 554, 174, 365-A, 459, 362, 386, 387, 414, 167, 183 and 178 under column 1 to 7 regarding number of panches following entries shall be inserted namely :—

SCHEDULE

Sr. No.	Name (s) of village (s) constituting Sabha Area	Block	District	Name of Gram Panchayat	No. of panches including Sarpanch	No. of panches belonging to S/C
1	2	3	4	5	6	7
130	Pithanwas	Bawal	Narnaul	Pithanwas	5	1
176	Asika-Tappa-Jarthai	Do	Do	Asika-Tappa Jarthai	5	1
554	Develawas, Dhamalka, Gajjiwas	Rewari	Do	Develawas	5	1
174	Fatehpuri, Tappa Dehina	Jatusana	Do	Fatehpuri Tappa Dehina	6	1
365-A	Gaderwas	Mohindergarh	Do	Gaderwas	5	1
459	Mohammedpur Bhungarka Simli Ismailpur	Nangal Chaudhry	Mohindergarh	Mohammadpur Bhungarka	8	1
361	Dhana	Mohindergarh	Do	Dhana	5	1
386	Malrawas	Do	Do	Malrawas	8	2
387	Malra Sarai	Do	Do	Malra Sarai	6	1
414	Sureti Madiana	Do	Do	Sureti Madiana	5	1
167	Chhilhar, Bhurtial Tathar	Jatsara	Do	Chhilhar	8	2
183	Jatusana	Do	Do	Jatusana	7	2
178	Gopalpur Gazi	Do	Do	Gopalpur Gazi	5	1

No. DPH-EI-83/181.—In partial modification of Haryana Government Development and panchayat Department Notification DPH-EI-83/131, dated 31st May, 1983 and in exercise of the powers conferred by sub-sections (1) and (2) of section 4 and section 5 of the Punjab Gram Panchayat Act, 1952 (Punjab Act 4 of 1953), and all other powers enabling him in this behalf, and in supersession of all the previous notifications issued in this behalf, the Governor of Haryana hereby declares the village or group of villages specified in column 2 of the schedule given below to be Sabha Area and establishes a Gram Panchayat for this Sabha Area by the name specified against in column 5 of the said schedule, which shall consist of such number of panches including sarpanch, as is specified against

the Gram Panchayat in column 6 there of out of which the number of panches belonging to the scheduled castes shall be as mentoned in column 7 of the said schedule :—

SCHEDULE

S. No.	Name(s) of village(s) constituting Sabha Area	Block	District	Name of Gram panchayat	No. of panches including Sarpanch	No. of panches belonging to S/C
1	2	3	4	5	6	7
1	Shahpur	Raipur Rani	Ambala	Shahpur	5	1
2	Narainpur, Tarkawala Dhani	Do	Do	Narainpur	5	1

No. DPH-EI-83/182:—In exercise of the powers conferred by sub-sections (1) and (2) of section 4 and section 5 of the Punjab Gram Panchayat Act, 1952 (Pnnjab Act 4 of 1953), and and other powers enabling him in this behalf and in supersession of all the previous notifications issued in this behalf, the Governor of Haryaaa hereby makes the following amendment in Haryana Government Development and Panchayat Department, Notification No. DP-EI-83/142, dated 31st May, 1983, namely:—

AMENDMENT

In Haryana Government, Development and Panchayats Development Notification No. DPH-EI-83/142, dated 31st May, 1983, in the schedule against serial No. 321 and 324, following entries shall be read namely:—

SCHEDULE

Serial No	Name(o) of village (s) constituting Sabha Area	Block	District	Name of Gram Panchayat	No. of panches including Sarpanch	No. of panches belonging to S/C
1	2	3	4	5	6	7
321	Keharpura	Bhiwani	Bhiwani	Keharpura	5	1
324	Panchayat already deleted.					

ARJAN DASS MALIK,

Deputy Secretary to Government, Haryana,
Development and Panchayat Department.

LABOUR DEPARTMENT

The 27th April, 1983

No. 9(1)-62-6Lab/3004.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s. Milk Plant Bhiwani.

BEFORE SHRI INDER SINGH DHULL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 58 of 1981

between

SHRI RAM DEEN, WORKMAN AND THE MANAGEMENT OF M/S. MILK
PLANT BHIWANI

Present,—

Shri S.N. Deen Vats, for the workman.

Shri C. P. Sharma, for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor,—vide his order No. ID/HSR/8-80/17678, dated 31st March, 1981, under section 10(i)(c) of the Industrial Disputes Act, for adjudication of the dispute existing between Shri Ram Deen, workman and the management of M/s Milk Plant, Bhiwani. The term of the reference was:—

Whether the termination of services of Shri Ram Deen was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties appeared, filed their respective pleadings and the only issue 'as per the term of reference' was framed by me learned predecessor on 3rd November, 1981.

In evidence the management examined Shri Satbir Singh, Manager, Milk Chilling Centre, Narnaul as MW. 1 and the workman examined Shri Rawal Singh, Dairyman as WW. 1 and himself as WW. 2. Arguments are also heard. The learned representative of the workman argued that the workman was not paid any compensation at the time of termination of his services. On the other hand the learned representative of the management argued that the workman absented himself from duty and his service was never terminated. I decide the issue as under:—

MW. 1 deposed that the concerned workman was appointed by him on 8th December, 1979 on daily wages. He did not work continuously. The record of attendance was Ex. MW. 1/1. He remained absent on 30th April, 1979, 8th May, 1979 to 11th May, 1979, 4th June, 1979, 21st July, 1979, 28th July, 1979, 20th September, 1979, 8th October, 1979 to 12th October, 1979 and 30th November, 1979. He further stated that the workman left the service on 10th April, 1980. He came to him on 16th April, 1980 and requested for issuance of experience certificate which was issued to him. In cross-examination he replied that in the Narnaul Chilling Centre there were six permanent workers. Three-four persons were appointed additionally looking to the increase in work. In the Bhiwani Milk Plant there were about 150—200 workers. He also replied that the rest was not allowed to a daily wage worker. Therefore, the concerned workman was also not allowed any rest day during December, 1978 to December, 1979. He was also not given any casual leave or sick leave.

On the other hand WW. 1 deposed that he knew the concerned workman who worked with him. The service of the concerned workman was terminated by some officer from Chandigarh. In cross-examination he replied that he himself was working for the last five years. He admitted that the concerned workman was on daily wages. He denied that the concerned workman remained absent for a number of days during his service. He also denied that the concerned workman has joined HSEB. The concerned workman deposed that he was working in chilling centre Narnaul which was under Milk Plant, Bhiwani as a Mali from 8th December, 1978. His services were terminated on 10th April, 1980 without any notice or compensation. At the time of termination he was issued experience certificate Ex. WW. 2/1. After his termination fresh appointments have been made at the chilling centre. He was unemployed. In his cross-examination he replied that certificate Ex. WW. 2/1 was issued on 16th April, 1980. He denied the suggestion that he had got a job in the HSEB. He denied that he left the services of his own. He admitted that he was on daily wages.

I have considered the evidence and arguments of the parties. I find that a workman was defined by section 2(s) of the I. D. Act as:—

"Workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward whether the terms of employment be expressed or implied, and for the purposes of any proceedings under this Act in relation to an industrial dispute, included any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute."

There is no difference between a regular employee or daily wage employee in the above definition. It was held in *Santosh Gupta versus State Bank of Patiala* (1980 II LLJ page 72) by their lordships of the Supreme Court "The expression 'termination of service for any reason whatsoever' in section 2(o) covers every kind of termination of service except those not expressly included in Section 25F or not expressly provided for by other provisions of the Act such as 25 FF and 25 FFF." The instant case also arose in the merely on the same facts. Santosh Gupta had service at her credit with breaks. The continuous service was defined in section 25B of the I.D. Act and it was sufficient if a workman had 240 days of service within one year at his credit. I find that Shri Ram Deen had more than 240 days of service. Therefore it was incumbent upon the management to pay him retrenchment compensation at the time

of termination of his services which was not so paid. As regards the arguments that the concerned workman left the service by remaining absent it was clear from the above said ruling that striking off name also amounted to retrenchment. Therefore I reach the conclusion that the termination of the workman was bad in law. Therefore he was entitled to reinstatement with continuity of service. As regards the back wages I feel that the workman was on daily wages and was not being given wages for weekly holidays or other off days, it will be in the fitness of things that he is allowed a lump sum compensation of Rs. 2500/-. The reference is answered and returned accordingly.

Dated the 19th March, 1983.

INDER SINGH DHULL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endorsement No. 812, dated the 24th March, 1983.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

INDER SINGH DHULL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 9(1)82-6Lab/3233.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of the Haryana Roadways, Rewari :—

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD.

Reference No. 20 of 1982

between

SHRI MADAN MOHAN, WORKMAN AND THE RESPONDENT-MANAGEMENT OF THE
HARYANA ROADWAYS, REWARI

Shri S.K. Yadav, for the workman.

Shri K.L. Piplani, for the respondent.

AWARD

This reference No. 20 of 1982 has been referred to this Court by the Hon'ble Governor of Haryana,— vide his order No. ID/GGN/70/81/3387, dated 19th January, 1982, under section 10(i) (c) of the Industrial Disputes Act, 1947, existing between Shri Madan Mohan, workman and the respondent-management of the Haryana Roadways, Rewari. The term of the reference was :—

Whether the termination of services of Shri Madan Mohan was justified and in order ?
If not, to what relief is he entitled ?

On receipt of order of reference the notices were issued to the parties who appeared and filed their pleadings. The case of the workman according to demand notice and claim statement is that he joined respondent service on 11th July, 1974 and drawing a salary of Rs. 240 per month. He was involved in the case on 12th May, 1978 at night shift and he was arrested,—vide F.I.R. No. 90 on 13th March, 1978. The judicial Magistrate, Rewari acquitted him on 27th November, 1980. After released on bail, he reported for duty but the respondent refused to give him duty after having been acquitted by the court. He approached for the reinstatement but the respondent refused to take the claimant on duty. The claimant was removed from duty without any order on 13th May, 1978. The workman was permanent employee and worked continuously from 11th July, 1974 to 13th May, 1979. No suspension or enquiry order was passed against the claimant and the removal order was illegal and the claimant is entitled for his reinstatement with back wages and continuity of service.

The case of the respondent according to written statement is that the claimant was appointed,—*vide* different orders of monthly wages and his services were liable to be terminated at any time. He was arrested in a theft case while on duty on 12th May, 1978 and it was not a planted case. He was acquitted by the Hon'ble court and the workman approached the respondent for joining his duty. The respondent was not bound to take the workman on duty as the service of the workman was purely temporary. He is not entitled for his reinstatement and other benefits. The charge-sheet was not necessary. So he was a temporary person. So the termination was legal and the workman is not entitled for any relief. So the reference may be answered in their favour.

On the pleadings of the parties, following issue were framed:—

Whether the termination of services of the workman is proper, justified and in order? If not, to what relief is he entitled?

My findings on the issue are as under:—

Issue No. I—

The representative of the respondent argued on this issue that as stated by Shri Jagdish Parshad, Record Keeper as M W-1, the workman was appointed on 1st April, 1974 as helper on daily wages. He was again issued the order Ex. M—1 for his appointment on 2nd August, 1974. After that he was again given the order on every month in this way. He received the order of appointment up to 13th May, 1978. The order, dated 4th April, 1978 is Ex. M-2. On 13th May, 1978 he was involved in a theft case and arrested by the police. The learned Court acquitted the claimant on 27th November, 1980 and after that he did not turn up to join his duty. He came for duty on 5th December, 1980 with an application Ex. M-3 but he was given no job as there was no post vacant at that time. He further argued that the workman was appointed on a daily wages as temporary employee and he was given the orders in this way for each month. He was not employed through Employment Exchange and not selected by the Selection body so his services can be terminated without any notice. There was no need to give any termination as he was involved in a theft case and was arrested by the Police. After the arrest he was rightly denied by the respondent.

The representative of the workman argued on this issue that as stated by the workman as WW-1, he joined the service on 11th July, 1974 as Helper Electrician. The respondent gave one certificate of his employment which is Ex. R-1. He worked continuously from 11th July, 1974 to 12th May, 1978 in the night shift. He was involved in a theft case by the supervisor due to an enmity and he was arrested by the police. After the bail the claimant came to join his duty on 18th May, 1978 but he was not given any duty. The learned Judicial Magistrate acquitted the claimant on 27th November, 1980 and after that order of acquittal he gave his application on 5th December, 1980 with the order of the Judicial Magistrate Ex. W-2 but he was not heard and given no orders. At the time of termination he was given no orders of termination or suspension. No enquiry was constituted against him as there was no charge-sheet against him. He was not on daily wages and he was regular and permanent employee. He further argued that the respondent have shown the claimant as monthly/daily wages but there is no such orders on the file and shown in the court that he was given any such monthly order to the workman. If there was any such orders they should have produced in the court that these orders were passed and he was given monthly orders. The workman joined on 11th April, 1974 and worked upto 12th May, 1978 and it is admitted fact in written statement and the respondent witness. When the workman worked continuously for four years he cannot be said to be a temporary workman. The fact of theft is admitted by the workman and also in the written statement of the respondent but,—*vide* Ex. W-2 the workman was acquitted as there was no case against him. The other theft article were issued to the workman on the same day to use and they were in the vehicle. It shows that it was a planted case as observed by the Judicial Magistrate and it was due to enmity with the claimant. The respondent has admitted this fact in their written statement that he was not given any orders of suspension or dismissal. The workman worked for four years which cannot be said as justified orders, so the workman was terminated illegally on the fabricated allegations of theft. The workman was harassed very much by involving in theft case and not taken on duty due to enmity. So in the interest of justice he may be reinstated with continuity of service and back wages. The respondent has failed to prove their case but they have admitted the story of the claimant that he has worked continuously from the date of appointment till date of alleged case without any break. He was acquitted by the Judicial Magistrate and he approached the respondent,—*vide* Ex. M-3 the application of the workman for joining the duty, but he was not given the duty. He was issued no suspension or termination orders which is quite illegal act of the respondent and the termination from 13th May, 1978 is illegal.

After hearing the arguments for both the parties and going through the file, I am of the view that the respondent has failed to prove his case. The workman worked for about four years continuously without any break. He was involved in a false case which is clear from the judgement Ex. W-2 and he was not issued any suspension or termination order. The respondent also failed to prove

that he was a monthly wages workman. They have not produced the documents to prove this fact. They have produced only order Ex. M-2 which does not prove the contention of the respondent. So he was illegally terminated. So he is entitled for his reinstatement with continuity of service and half back wages from the date of termination, i.e., 13th May, 1978.

This be read in answer to this reference.

Dated, the 30th March, 1983.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana,
Faridabad

Endts. No. 685, dated the 1st April,, 1983.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana, Faridabad.

ASHOK PAHWA

Commissioner and Secretary to Government,
Haryana, Labour and Employment Department.